

1 DAVID F. GROSS (Bar No. 083547)
2 JEFFREY M. HAMERLING (Bar No. 091532)
3 JOHN R. HURLEY (Bar No. 203641)
4 DLA PIPER RUDNICK GRAY CARY US LLP
5 153 Townsend Street, Suite 800
6 San Francisco, CA 94107-1957
7 Tel: 415.836.2500
8 Fax: 415.836.2501

9 Attorneys for Defendant
10 REVERE SUPPLY, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 COAST MARINE & INDUSTRIAL
14 SUPPLY, INC., a California Corporation;
15 and OCEANS WEST MARINE SUPPLY,
16 INC., a California Corporation,

17 Plaintiffs,

18 v.

19 REVERE SUPPLY, INC., a Florida
20 Corporation; RFD BEAUFORT, LTD., a
21 United Kingdom Company; and RFD
22 BEAUFORT, INC., an Ohio Corporation,,

23 Defendants.

CASE NO. C-05-0571 SC

**STIPULATION AND ~~PROPOSED~~
ORDER TAKING RULE 12(B)(6)
MOTIONS OFF CALENDAR**

1 Plaintiffs Coast Marine & Industrial Supply, Inc. and Oceans West Marine & Industrial
2 Supply, Inc. (collectively "Plaintiffs") and Defendants Revere Supply, Inc., RFD Beaufort, Ltd.,
3 and RFD Beaufort, Inc. (collectively "Defendants") have reached a settlement in principle in this
4 matter and are in the process of documenting the settlement.

5 The parties, through their respective counsel, therefore stipulate and request that
6 Defendants' Rule 12(b)(6) motions to dismiss, currently set for hearing on October 28, 2005, be
7 taken off calendar without prejudice to Defendants' right to later refile and/or assert the
8 arguments therein.

9
10 Dated: October _____, 2005

HENNEFER & WOOD

11
12 By _____

JAMES A. HENNEFER
Attorneys for Plaintiffs
COAST MARINE & INDUSTRIAL SUPPLY,
13 INC., and OCEANS WEST MARINE
14 SUPPLY, INC.

15 Dated: October 7, 2005

DLA PIPER RUDNICK GRAY CARY US LLP

16
17 By  _____

JOHN R. HURLEY
Attorneys for Defendant
18 REVERE SUPPLY, INC.

19
20 Dated: October 7, 2005

FULBRIGHT & JAWORSKI L.L.P.

21
22 By  _____

PETER H. MASON
Attorneys for Defendant
23 RFD BEAUFORT, LTD. and RFD
24 BEAUFORT, INC.

1 Plaintiffs Coast Marine & Industrial Supply, Inc. and Oceans West Marine & Industrial
2 Supply, Inc. (collectively "Plaintiffs") and Defendants Revere Supply, Inc., RFD Beaufort, Ltd.,
3 and RFD Beaufort, Inc. (collectively "Defendants") have reached a settlement in principle in this
4 matter and are in the process of documenting the settlement.

5 The parties, through their respective counsel, therefore stipulate and request that
6 Defendants' Rule 12(b)(6) motions to dismiss, currently set for hearing on October 28, 2005, be
7 taken off calendar without prejudice to Defendants' right to later refile and/or assert the
8 arguments therein.

9
10 Dated: October 6, 2005

HENNEFER & WOOD

11
12 By 

JAMES A. HENNEFER

Attorneys for Plaintiffs

COAST MARINE & INDUSTRIAL SUPPLY,
INC., and OCEANS WEST MARINE
SUPPLY, INC.

13
14
15 Dated: October _____, 2005

DLA PIPER RUDNICK GRAY CARY US LLP

16
17 By _____

JOHN R. HURLEY

Attorneys for Defendant
REVERE SUPPLY, INC.

18
19
20 Dated: October _____, 2005

FULBRIGHT & JAWORSKI L.L.P.

21
22 By _____

PETER H. MASON

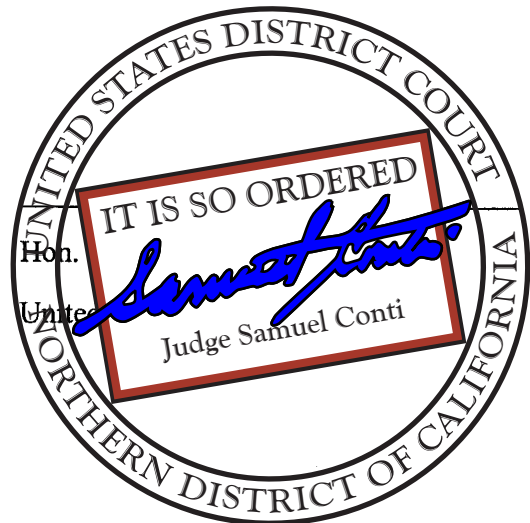
Attorneys for Defendant
RFD BEAUFORT, LTD. and RFD
BEAUFORT, INC.

[proposed] ORDER

Based on the stipulation of the parties and good cause shown, Defendants' Rule 12(b)(6) motions to dismiss, currently set for hearing on October 28, 2005, are hereby taken off calendar without prejudice to Defendants' right to later refile and/or assert the arguments therein..

IT IS SO ORDERED.

October 11, 2005



PROOF OF SERVICE

I am a resident of the state of California, over the age of eighteen years, and not a party to the within action. My business address is DLA Piper Rudnick Gray Cary US LLP, 153 Townsend Street, 8th Floor, San Francisco, CA 94107. On October 7, 2005, I served the within documents:

STIPULATION AND [PROPOSED] ORDER TAKING RULE 12(B)(6) MOTIONS OFF CALENDAR

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ by causing to be personally delivered the document(s) listed above to the person(s) at the address(es) set forth below.

James A. Hennefer
Hennefer & Wood
425 California Street, Suite 1900
San Francisco, CA 94101
T: (415) 421-6100
F: (415) 421-1815

Attorneys for Plaintiff Coast Marine & Industrial
Supply, Inc., et al.

Peter H. Mason
Fulbright & Jaworski LLP
865 South Figueroa Street
Twenty-Ninth Floor
Los Angeles, CA 90017-2571
T: (213) 892-9200
F: (213) 680-4518

Attorneys for Defendants RFD Beaufort, Ltd. and
RFD Beaufort, Inc.

Peter E. Nicandri, Esq.
Milam Howard Nicandri Dees Gillam, PA
50 North Laura Street, Ste. 2900
Jackville, FL 32202
T: (904) 357-3660
F: (904) 357-3661

1 I declare that I am employed in the office of a member of the Bar of or permitted to practice before
2 this Court at whose direction the service was made.

3 Executed on October 7, 2005, at San Francisco, California.

4 
Shelley Marlowe